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Putting Focus Back on the Family: Using Multisystemic Therapy and Regionalized Incarceration as Alternatives to the Texas Youth Commission

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PUTTING FOCUS BACK ON THE FAMILY: USING MULTISYSTEMIC THERAPY AND REGIONALIZED INCARCERATION AS ALTERNATIVES TO THE TEXAS YOUTH COMMISSION

Elizabeth Upchurch

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I. INTRODUCTION

We live in a rapidly changing world that influences our lives every day. Our perceptions, values, opinions, and beliefs shape decisions that will have an everlasting impact on our lives. Children are particularly impressionable, and adults struggle to provide proper discipline and guidance to youth growing up in a world much different from that which their parents and grandparents knew. Poverty, dysfunctional families, truancy, teenage pregnancy, criminal activity, gang influences, exploitation, and drug and alcohol abuse are just a few of the crises that youth face every day.

Despite these social changes over the past fifty years, the juvenile justice system has largely failed to modify its rehabilitation programs

to accommodate the specific problems that youth face today. These changes, however, must be a priority for legislators. In 2003, 15% of all reported arrests in the United States involved a male under the age of eighteen, and 20% involved a female under the age of eighteen.¹ As dysfunction becomes more commonplace, juvenile agencies must make a firm commitment to rehabilitating youth with due consideration for the changing environment youth live in today.

The State of Texas must also consider the changing problems facing youth in order to improve its juvenile justice system. The Texas Youth Commission (TYC) is the state juvenile corrections agency responsible for the custody, care, and rehabilitation of juvenile offenders in the State of Texas.² Reforms implemented in the TYC system over the past fifty years have addressed fundamental safety and welfare concerns amidst allegations of abuse and neglect. However, reform of the TYC's rehabilitation programs and facilities has not kept up with the social changes that affect youth today.

For the reasons explored in detail in this Comment, the Texas juvenile justice system should be reformed to eliminate the TYC. In its place, Texas should implement locally-managed multisystemic therapy (MST) programs that focus on eliminating risk factors for delinquent behavior and strengthening the family in order to assure long-term maintenance of acceptable behavior. Participation in MST is community-based and allows the juvenile to remain at home during treatment. This should be the first line of defense in assisting juveniles in overcoming delinquent behavior. As a result, incarceration of juveniles should be reserved only for serious or habitual offenders, and these facilities should be regionalized in order to keep juveniles connected with their families and involved in their communities. Research suggests that MST is cost effective, reduces recidivism rates, and keeps youth integrated within their families and communities.

Section II of this Comment explores the history and origins of the TYC, reforms implemented in the TYC since its formation, general offender statistics and trends, reports and investigations of abuse and neglect in recent years, and recommendations made by the recent Blue Ribbon Task Force as to the direction and suggested future reform of the TYC. Section III of this Comment evaluates MST as an alternative to incarcerating juvenile offenders. It specifically explores studies proving MST to be cost-effective and productive, and it details the underlying principles of the MST approach. Additionally, Section III analyzes the necessity of "last resort" regionalized incarceration

1. HOWARD N. SNYDER & MELISSA SICKMUND, NAT'L CTR. FOR JUV. JUST., JUVENILE OFFENDERS AND VICTIMS: 2006 NATIONAL REPORT 126 (2006), available at <http://ojjdp.ncjrs.org/ojstatbb/nr2006/downloads/NR2006.pdf>.

2. Tex. Youth Comm'n, Overview of the Juvenile Corrections System in Texas, <http://www.tyc.state.tx.us/about/overview.html> [hereinafter Overview] (last visited Aug. 20, 2008).

facilities in order to rehabilitate the most serious and habitual offenders. It reviews the success of the "Missouri Model" and establishes why a similar model in the State of Texas would be cost-effective and would reduce recidivism rates among juveniles released from those facilities.

II. A GLIMPSE OF THE TEXAS YOUTH COMMISSION

A. *Origins of the Texas Youth Commission*

In the mid-1800s, Texas legislators recognized the need for an alternative to convicting children for delinquent behavior.³ In order to prevent juveniles from becoming habitual criminal offenders as adults, legislators created a system where a juvenile's conduct could be adjudicated through placement in an alternative environment that focused on teaching youth about discipline, morality, and values.⁴ As a result, the Texas legislature established the Gatesville State School for Boys, which opened its doors in 1889.⁵ Delinquent boys who were previously imprisoned with adult felons were transferred to the Gatesville State School, and new male offenders were sent directly to this facility.⁶ Management and control of the Gatesville State School changed several times between 1889 and 1949, ultimately leading to the school coming under the authority of the Texas Youth Development Council in 1949.⁷ A similar facility named the Texas State Training School for Girls was established in 1913 for rehabilitating delinquent juvenile girls.⁸ This facility came under the management and control of the Texas Youth Development Council in 1957.⁹

In order to administer Texas's juvenile training schools and to implement additional programs aimed at rehabilitating delinquent youth, the Texas legislature established the Texas Youth Development Council through the enactment of the Gilmer Aiken Act of 1949.¹⁰ A restructuring of the agency in 1957 resulted in the formation of the Texas Youth Council.¹¹ The Texas Youth Council supervised and con-

3. See Tex. Youth Comm'n, A Brief History of TYC, <http://www.tyc.state.tx.us/about/history.html> (last visited Aug. 20, 2008) [hereinafter History of TYC]; see also Laurie E. Jasinski, *Texas Youth Commission*, in THE HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/TT/mdt35.html> (last visited Aug. 9, 2008).

4. See History of TYC, *supra* note 3.

5. See James W. Markham & William T. Field, *Gatesville State School for Boys*, in HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/GG/jjg2.html> (last visited Aug. 20, 2008).

6. *Id.*

7. *Id.*

8. Brian Hart, *Gainesville State School for Girls*, in THE HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/GG/jjg1.html> (last visited Aug. 20, 2008).

9. See *id.*

10. See History of TYC, *supra* note 3.

11. *Id.*

trolled state training schools and homes for neglected children.¹² For the first time in Texas, community-based programs were emphasized as an alternative to institutional treatment facilities.¹³

In 1983, the legislature changed the name of the Texas Youth Council to the Texas Youth Commission (TYC).¹⁴ Today, the TYC is the state juvenile corrections agency responsible for the custody, care, and rehabilitation of juvenile offenders in the State of Texas.¹⁵ It consists of institutional facilities and residential half-way houses¹⁶ that seek to promote public safety through a partnership “with youth, families, and communities [in order] to provide a safe and secure environment where youth” are able to receive “individualized education, treatment, and life skills and employment training.”¹⁷

Population trends in the TYC have varied over time; however, the total number of new commitments consistently increased between 2001 and 2006.¹⁸ Although the number of new commitments decreased during TYC’s 2007 fiscal year,¹⁹ S.B. 103 (discussed in Section II.B.3. *infra*) was passed into law on June 8, 2007.²⁰ This legislation limited TYC commitment to juveniles adjudicated of felonies and eliminated TYC as an alternative for misdemeanor offenders.²¹

During the 2006 fiscal year, 2,738 juveniles in the State of Texas were committed to the TYC—2,190 were incarcerated for felony offenses and 548 were committed for misdemeanor offenses.²² Also in the 2006 fiscal year, the most common underlying charges, which encompassed 43% of the offenses of incarcerated youth, were for burglary, drug offenses, and simple assault; 89% of offenders were male and 11% were female; 22% were Anglo, 34% were African American, 44% were Hispanic, and 1% was of another ethnicity; and 57% were over the age of 15.²³ Additionally, 34% of youths committed were

12. *Id.*

13. *Id.*

14. Tex. Youth Comm’n, A Brief History of TYC, Reforms: 1980’s – 1990’s, <http://www.tyc.state.tx.us/about/history2.html> (last visited Aug. 20, 2008) [hereinafter History of TYC Reforms].

15. Overview, *supra* note 2.

16. *Id.*

17. See Tex. Youth Comm’n, Mission Statement & Guiding Principles, <http://www.tyc.state.tx.us/about/mission.html> (last visited Sept. 21, 2008).

18. See Tex. Youth Comm’n, TYC Population Trends, http://www.tyc.state.tx.us/research/growth_charts.html (last visited Sept. 21, 2008) [hereinafter TYC Population Trends]; see also Tex. Youth Comm’n, Texas Youth Commission Commitment Profile: Commitment Profile for New Commitments Fiscal Years 2003-2007 (2007), <http://www.tyc.state.tx.us/research/profile.html> (last visited Aug. 4, 2008) [hereinafter Commitment Profile].

19. See Commitment Profile, *supra* note 18.

20. Texas Legislature Online, Bill History, <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=80R&Bill=SB103> (last visited Sept. 21, 2008).

21. See TEX. FAM. CODE ANN. § 54.04(d)(2) (Vernon 2007).

22. See *id.*

23. See *id.*

known gang members upon entry, and only 18% of the offenders lived in homes where the father and mother were still married.²⁴

B. *A Cycle of Crisis*

Claims of abuse and neglect have plagued the TYC since its formation. Although the Texas legislature tried on several occasions to address problems through issue-specific reform, a cycle of crisis in the TYC continued for years. The first major overhaul of the TYC and of the juvenile justice system, both in Texas and nationally, resulted from the federal landmark case of *Morales v. Turman*.²⁵

1. *Morales v. Turman*

The filing of a class-action lawsuit against the Texas Youth Council was the beginning of a long series of reforms in the Texas juvenile justice system. Fifteen-year-old Alicia Morales was committed to the TYC for disobedience after refusing to give her earnings to her father.²⁶ At that time, it was general practice for parents to mutually agree with the court to commit their child to the TYC for general disobedient behavior.²⁷ Morales did not receive notice of the charges against her, she made no court appearance, and she was not represented by an attorney; nevertheless, she was involuntarily committed to the TYC.²⁸

Morales joined with a class of children and brought suit against the Texas Youth Development Council challenging procedural aspects of the Texas juvenile justice system and poor conditions that existed at TYC facilities.²⁹ The case was appealed on procedural matters, but after thirteen years of discovery, negotiations, and court proceedings, the case finally settled.³⁰ However, a Texas federal district court found early on that there was widespread brutality in the TYC "so severe as to degrade human dignity."³¹ The court further found a "widespread practice of beating, slapping, kicking, and otherwise physically abusing juveniles in the absence of any exigent circumstances" and "[c]onfinement under circumstances giving rise to a high probability of physical injury to inmates."³²

The case resulted in an in-depth analysis of the TYC by legislators and brought about several significant changes. First, a preferred staff-

24. *See id.*

25. *Morales v. Turman*, 569 F. Supp. 332 (E.D. Tex. 1983).

26. *See* History of TYC, *supra* note 3.

27. *Id.*

28. *Id.*

29. *Morales*, 569 F. Supp. at 333.

30. *See id.* at 333-34; *see also* History of TYC, *supra* note 3.

31. *Morales v. Turman*, 383 F. Supp. 53, 77 (E.D. Tex. 1974), *rev'd on other grounds*, 535 F.2d 864 (5th Cir. 1976), *rev'd*, 430 U.S. 322 (1977).

32. *Id.*

to-youth ratio of 1:8 was established.³³ Second, all corporal punishment and all forms of inhumane treatment were prohibited.³⁴ Third, all juveniles were afforded due process rights in all court hearings and TYC administrative hearings.³⁵

2. Additional Changes in the 1980s and 1990s

In response to a continual and substantial increase in juvenile crime beginning in the mid-1980s in the State of Texas and nationally, Texas implemented blended sentencing for juvenile offenders.³⁶ Under this approach, a criminal sentence is blended with a juvenile court disposition so that it is possible for an offender to begin his or her sentence in the juvenile justice system and end the sentence in the adult correctional system.³⁷ In response to increased juvenile crime, the Texas legislature passed “get tough” reform attempting to balance the two countervailing purposes of the TYC—rehabilitation of the committed youth and public safety.³⁸ The legislation clearly conveyed this “get tough” approach by lowering the age at which a youth could be certified as an adult for capital and first degree felonies from fifteen years old to fourteen years old; increasing the maximum sentence for first degree felonies to forty years; establishing minimum lengths of stay in the TYC; and allowing a juvenile to be transferred to the adult system to complete his or her sentence after the age of sixteen.³⁹ Today, the TYC continues to use blended sentencing in balancing the countervailing purposes of rehabilitating youth and preserving public safety.⁴⁰

Claims of physical and sexual abuse and neglect in the TYC recently surfaced again. This prompted an extensive investigation of all the TYC facilities and is the basis for additional reform and continuous evaluation of the TYC.

3. Senate Bill 103

Reports of sexual abuse and other inappropriate behavior by high-ranking officials at the TYC facility in Pyote, Texas were disregarded for years until an in-depth investigation by the Texas Rangers in 2005.⁴¹ This investigation revealed that on numerous occasions, two

33. Press Release, Tex. Coal. Advocating Justice for Juveniles, Significance of *Morales v. Turman* in Understanding Today's Texas Youth Commission, available at http://www.tcjj.org/PDF%20Files/Morales_v_Turman_Fact_Sheet.pdf.

34. *Id.*

35. *Id.*

36. See History of TYC Reforms, *supra* note 14.

37. *Id.*

38. See *id.*

39. *Id.*

40. See *id.*

41. See Doug J. Swanson, *Sex Abuse Reported at Youth Jail*, DALLAS MORNING NEWS, Feb. 18, 2007, available at <http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/021807dntextycsex.1bd0f05.html>.

top officials at the Pyote facility engaged in sexual acts with male inmates.⁴² The investigation was not widely publicized until two years later in early 2007 when legislators and news agencies began asking questions about the findings and the lack of action taken in response to additional allegations of abuse and neglect revealed throughout the TYC system.⁴³

In June 2006, the U.S. Department of Justice commenced an investigation of the Evins Regional Juvenile Center in Edinburg, Texas in order to determine if the constitutional rights of juveniles were being violated.⁴⁴ Department of Justice officials inspected the Evins facility on September 12–15, 2006.⁴⁵ During its inspection, officials interviewed various employees, administrators, and juveniles and also reviewed files, documents, and records.⁴⁶ Officials concluded that the Evins facility “fail[ed] to adequately protect the youths in its care from youth and staff violence.”⁴⁷ The report characterized the atmosphere at the Evins facility as “chaotic and dangerous,” noting that youth-on-youth assaults at Evins occurred at approximately five times the national average for similar institutions.⁴⁸ The report further detailed interviews with youth inmates in which youth describe fights with other juveniles as “a regular part of the culture in the living units.”⁴⁹ The report attributed the escalated number of youth-on-youth assaults to a lack of staff to adequately supervise youth inmates; a lack of incentive programs to encourage good behavior; an inadequate inmate classification system to separate high risk inmates from other juveniles; and an inadequate grievance reporting system for inmates to report complaints to proper officials.⁵⁰

The Evins investigation also revealed an alarmingly high number of incidents involving the use of excessive force by staff at the facility.⁵¹ Once again, the report indicated that inadequate staffing and improper training of staff contributed to the violence, noting that “[w]hen staff feel outnumbered and stretched too thin, they are more likely to apply extra force during a restraint to emphasize to the youth that non-compliant behavior will not be tolerated.”⁵²

Numerous other incidents were discovered and investigated during this time. Ricky Luna, Sr. filed a \$5 million dollar lawsuit against the

42. *Id.*

43. *Id.*

44. Letter from Wan J. Kim, Assistant Attorney Gen., U.S. Dep’t of Justice, to The Honorable Rick Perry, Governor of Tex. 1 (Mar. 15, 2007), available at http://www.usdoj.gov/crt/split/documents/evins_findlet_3-15-07.pdf.

45. *Id.*

46. *Id.*

47. *Id.* at 3.

48. *Id.* at 4.

49. *Id.* at 6.

50. *See id.* at 6–9.

51. *Id.* at 9.

52. *Id.* at 10–11.

TYC on March 19, 2007, claiming that his son was beaten by guards and inappropriately touched by a female guard at the San Saba State School.⁵³ Ricky Luna, Jr. claimed that guards moved surveillance cameras in order to cover up the abuse.⁵⁴ Another officer was arrested at the Brownwood facility for using excessive force on a female inmate and was charged with aggravated assault causing serious bodily injury.⁵⁵ Additionally, after requesting that any victims of abuse or neglect in TYC facilities come forward, nearly 300 complaints were registered with the TYC abuse hotline in the first two weeks.⁵⁶

Responding to widespread allegations of abuse throughout the TYC, Senator Hinojosa introduced S.B. 103 during the 80th Regular Legislative Session of the Texas Legislature.⁵⁷ Senator Hinojosa attributed the cases of abuse to inadequate training of TYC employees, high turnover rates of TYC employees, lack of an internal department to investigate claims made by TYC youth, and a deficiency in adult-to-child ratios throughout the TYC system.⁵⁸ As a result, S.B. 103 proposed widespread reform to cure each of these deficiencies.⁵⁹ After appropriate review and vote, S.B. 103 was signed into law by Governor Rick Perry at the conclusion of the 80th Regular Legislative Session.⁶⁰ As enacted, S.B. 103 included provisions that:

- (a) require the TYC to provide a minimum of 300 hours of training to guards prior to working in any TYC facility;⁶¹
- (b) require a ratio of one correctional officer for every twelve juveniles in facilities with a dormitory;⁶²
- (c) establish independent departments to investigate and prosecute criminal cases involving TYC youth and employees,⁶³ and

53. Rudy Koski, *\$5M Lawsuit Filed in TYC Scandal*, DALLAS MORNING NEWS, Mar. 19, 2007, available at <http://www.dallasnews.com/sharedcontent/dws/news/texas-southwest/stories/032007dntextyc.2b8d2411.html>.

54. *Id.*

55. *TYC Officer Arrested for Excessive Force*, DALLAS MORNING NEWS, Mar. 16, 2007, available at <http://www.dallasnews.com/sharedcontent/dws/news/texas-southwest/stories/031707dntextycguardarrest.1ba4e2e6.html>.

56. See Emily Ramshaw, *Complaints Pour in to TYC Abuse Inquiry*, DALLAS MORNING NEWS, Mar. 13, 2007, available at http://www.dallasnews.com/sharedcontent/dws/news/texas-southwest/stories/DN-tyc_13tex.ART.State.Edition1.44911b8.html.

57. See Bill Analysis, S.B. 103, 80th Reg. Sess. (Tex. 2007), available at <http://www.legis.state.tx.us/tlodocs/80R/analysis/pdf/SB00103I.pdf>.

58. *See id.*

59. *Id.*

60. See Act of June 8, 2007, 80th Leg., R.S., available at 2007 TX S.B. 103 (NS) (Westlaw).

61. TEX. HUM. RES. CODE ANN. § 61.0356(b) (Vernon 2007).

62. *Id.* § 61.0356(d).

63. *See id.* § 61.0451 (establishing the office of the Inspector General to investigate crimes committed by TYC officials and crimes committed at TYC facilities); *see also* TEX. GOV'T CODE ANN. § 41.302 (Vernon 2007) (establishing the Special Prosecution Unit to work with prosecutors in prosecuting criminal offenses involving the TYC).

(d) enhance punishments for sexual offenses against TYC inmates.⁶⁴

The impact and implementation of these reforms has yet to be fully realized, but it is clear that additional reform is needed to adequately address all of the problems in the TYC. S.B. 103 undoubtedly addressed fundamental administrative and structural necessities required to ensure basic safety and protect the fundamental constitutional rights of youth committed to the TYC; however, numerous concerns must still be addressed, including the effectiveness of TYC's rehabilitation programs and recidivism rates of youth who are released from the TYC.

4. Continuing Concerns and the Blue Ribbon Task Force Report

In connection with the investigations of abuse that surfaced in early 2007, Ed Owens, the then-Interim Director of the TYC, called for the formation of a special Blue Ribbon Task Force to investigate evidence-based practices in the treatment of juvenile delinquents and to define a new TYC rehabilitation system based on its findings.⁶⁵ The Task Force examined procedures, effectiveness, and alternatives in three stages of a juvenile's involvement in the TYC—before, during, and after placement in a TYC facility.⁶⁶ Although the Task Force made numerous conclusions regarding each stage of the process, the most significant conclusions and recommendations included the following:

- (a) Too many youth are referred to the TYC instead of being kept in local systems where community- and family-based services are more effective and less costly;⁶⁷
- (b) Detaining a youth does not improve the functioning of the youth, and therefore does not make the community safer in the long-run;⁶⁸
- (c) Incarceration in the TYC should be reserved only for the most serious offenders, and all others should be handled in their home communities;⁶⁹
- (d) Families should be involved in a juvenile's treatment plan;⁷⁰ and

64. See TEX. PENAL CODE ANN. § 39.04 (Vernon 2007).

65. DAVID W. SPRINGER ET AL., UNIV. OF TEX. AT AUSTIN, SCH. OF SOC. WORK, *TRANSFORMING JUVENILE JUSTICE IN TEXAS: A FRAMEWORK FOR ACTION 2* (2007), available at http://www.utexas.edu/ssw/faculty/springer/e/jjfr_sept2007.pdf.

66. *Id.* at 3.

67. *Id.* at 8–9, 16, 24.

68. *Id.* at 14, 24.

69. *Id.* at 16, 19.

70. *Id.* at 47.

(e) Appropriate staffing ratios, training programs for employees, and systems of accountability for improper behavior of employees should be established.⁷¹

Clearly, the Task Force made strong recommendations that the State of Texas should consider restructuring the TYC in order to implement more localized programs to address the treatment of delinquent juvenile behavior. Two alternatives that would most effectively and efficiently address these recommendations are the implementation of MST programs as the first line of defense against delinquent behavior, followed by incarceration in small, regionalized, and locally-managed facilities for serious or chronic juvenile offenders. Both alternatives have been proven to be valuable and extremely cost effective.

III. MULTISYSTEMIC THERAPY AND REGIONALIZED INCARCERATION FACILITIES AS ALTERNATIVES

History has established that the TYC is caught in a cycle of crisis. Although significant reforms have been implemented in the past fifty years, these changes have not adequately addressed the effectiveness of the TYC's rehabilitation programs nor the changes needed to implement programs that address fundamental behavioral modification of delinquent children. Texas must address this issue in the coming years in order to end the cycle of crisis in the TYC. The combined use of two alternatives—MST as a first line of defense for treating juvenile offenders and regionalized incarceration facilities as a last resort for serious or habitual offenders—can adequately address these concerns.

A. *The Multisystemic Therapy Approach*

MST is a treatment alternative with proven results in effectively rehabilitating delinquent youth. It was originally developed in the 1970s as an alternative to ineffective and costly mental health treatment for juveniles.⁷² However, since its creation, MST has been used and tested in numerous studies that have analyzed its effectiveness in correcting behavioral issues in juvenile offenders.⁷³ The MST model is currently utilized in juvenile programs in thirty-three states, including programs in Tarrant and Bexar Counties, Texas.⁷⁴ Ten other countries have also implemented MST programs for juveniles.⁷⁵ Additionally, MST has been identified as a model treatment program by several

71. *Id.* at 22–23, 50.

72. *See* MST Services, Executive Summary, http://www.mstservices.com/executive_summary.php [hereinafter Executive Summary] (last visited Aug. 20, 2008).

73. *See id.*

74. *See* MST Services, Licensed Teams by Location, http://www.mstservices.com/licensed_teams_by_location.php (last visited Sept. 20, 2008).

75. *See id.*

national institutions, including The Office of the U.S. Surgeon General⁷⁶ and the Office of Juvenile Justice and Delinquency Prevention.⁷⁷

1. The Underlying Principles of MST

The MST model is founded on nine principles which recognize the flexibility required to facilitate behavioral modification in individual cases while also maintaining strict accountability standards for MST providers. First and most importantly, the MST therapist must identify the “fit” between the behavioral issue(s) and the ecology of the juvenile’s environment.⁷⁸ Recognizing the “reciprocal interplay of the child and his or her social ecology,” an MST therapist carefully evaluates all of the systems influencing a child in order to develop and customize a problem-specific intervention plan to identify and attenuate risk factors and correct behavioral problems.⁷⁹

Identifying the “fit” is fundamental to the MST approach, and it is a key difference between MST and traditional treatment models. Traditional treatment efforts tend to be narrowly-focused plans administered in institutional settings.⁸⁰ These efforts generally focus only on the child’s actions and fail to assess known determinants and causes of antisocial behavior that exist in other areas of the child’s life, including the juvenile’s family, peer groups, school, and community.⁸¹ MST, on the other hand, is a treatment option for antisocial behavior that recognizes the complex interrelation between youth, family, peer, school, and community systems.⁸² Due to the interrelation of these complex systems, MST attributes behavioral problems to a dysfunctional occurrence in one of the systems or a dysfunctional transaction among the systems.⁸³ As a result, the MST therapist evaluates and considers information obtained from various sources, including the child’s family members, teachers, peers, and other persons involved in

76. See U.S. Pub. Health Serv., Youth Violence: A Report of the Surgeon General, <http://www.surgeongeneral.gov/library/youthviolence/toc.html> (follow link to “Multisystemic Therapy”) (last visited Aug. 20, 2008).

77. See U.S. Dep’t of Justice, OJJDP Model Programs Guide, Multisystemic Therapy, http://www.dsgonline.com/mpg2.5//TitleV_MPG_Table_Ind_Rec.asp?id=363 (last visited Aug. 20, 2008).

78. See MST Services, MST Treatment Model, http://www.mstservices.com/mst_treatment_model.php (last visited Sept. 20, 2008) [hereinafter Treatment Model].

79. *Id.*

80. See Executive Summary, *supra* note 72.

81. *Id.*

82. See Scott W. Henggeler, Gary B. Melton & Linda A. Smith, *Family Preservation Using Multisystemic Therapy: An Effective Alternative to Incarcerating Serious Juvenile Offenders*, 60 J. CONSULTING & CLINICAL PSYCHOL. 953, 953 (1992) [hereinafter *Family Preservation*]; see also Executive Summary, *supra* note 72.

83. See *Family Preservation*, *supra* note 82, at 955.

the child's life in order to identify the dysfunction and formulate an appropriate intervention.⁸⁴

Another important component of finding the "fit" is that the child is not removed from his or her home during participation in the MST program.⁸⁵ Instead, the child remains at home and within his or her influence of systems, as opposed to being in an institutional setting.⁸⁶ Although in many cases a child who participates in MST faces an imminent threat of being placed in an out-of-home facility, the underlying philosophy of MST remains focused on helping children through helping their families in their home environment.⁸⁷

The second underlying principle of MST is that the MST therapist emphasizes the positive aspects of the child's situation, particularly the family's strengths.⁸⁸ Emphasizing strengths improves family collaboration and ultimately leads to a more favorable treatment outcome.⁸⁹ MST recognizes the family as a valuable resource in the rehabilitative process, even when the family itself has serious needs.⁹⁰ Therefore, the MST approach typically aims to improve discipline practices in the home and strengthen familial relationships.⁹¹ As a result, under the MST approach, a wide range of services can be offered to families, including meeting social, educational, psychological, emotional, and material needs.⁹²

Third, the MST treatment model focuses on increasing the responsibility of family members, including the child and his or her parent or caregiver.⁹³ For the child, this may include responsibilities such as helping around the house, improving in school, and not harming others.⁹⁴ For the parent or caregiver, the MST therapist emphasizes "parental empowerment [in order] to modify the natural social network of their children"⁹⁵ by encouraging the parent or caregiver to

84. See Kirstin R. Painter, A Quasi-Experimental Design: Multisystemic Therapy as an Alternative Community-Based Treatment for Youth with Severe Emotional Disturbance 101 (Aug. 2007) (unpublished Ph.D. dissertation, University of Texas at Arlington), available at <https://dspace.uta.edu/bitstream/10106/570/1/umi-uta-1767.pdf>.

85. See *Family Preservation*, *supra* note 82, at 955; see also Scott W. Henggeler, *Treating Serious Antisocial Behavior in Youth: The MST Approach*, U.S. Dep't of Justice, JUV. JUST. BULL. 1 (May 1997), available at <http://www.ncjrs.gov/pdffiles/165151.pdf> [hereinafter JUV. JUST. BULL.].

86. See JUV. JUST. BULL., *supra* note 85, at 2; see also Treatment Model, *supra* note 78.

87. See JUV. JUST. BULL., *supra* note 85, at 2.

88. *Id.*

89. See Painter, *supra* note 84 at 101.

90. See JUV. JUST. BULL., *supra* note 85, at 2.

91. See Executive Summary, *supra* note 72.

92. See JUV. JUST. BULL., *supra* note 85, at 2.

93. *Id.*; see also Painter, *supra* note 84, at 101.

94. See Painter, *supra* note 84, at 101.

95. See Executive Summary, *supra* note 72.

provide a more structured environment, improve discipline practices, and express love and support to the child.⁹⁶

The fourth underlying principle of the MST approach is that interventions focus on the present time and not on explaining or justifying past actions.⁹⁷ This allows the therapist to clearly identify present problems in the child's social ecology and outline specific goals to address each issue.⁹⁸ It also prevents the family from stalling the rehabilitative process by focusing on past behavior and actions; instead, the family develops clear goals for the future.⁹⁹

The fifth fundamental principle of MST is that it targets "sequences" of events between or among the systems that maintain and prolong delinquent behavior.¹⁰⁰ The MST therapist focuses on strengthening familial interactions and establishing a network of social support groups for the family, including school resources, neighbors, friends, and church affiliations.¹⁰¹

Sixth, each MST intervention is customized to fit the developmental abilities and capacities of the family and the child.¹⁰² The treatment plan is tailored to the age-appropriate needs of the child and focuses on "building youth competencies in peer relations and acquiring academic and vocational skills that will promote a successful transition to adulthood."¹⁰³

Seventh, MST interventions are designed to require continuous effort by the child and his or her family in order to bring about change.¹⁰⁴ This often requires daily involvement, which allows problems and goals to be identified quickly and any noncompliance with the MST program to be corrected promptly.¹⁰⁵ This also acknowledges the fact that most families participating in the MST program have problems spanning a significant period of time.¹⁰⁶ As such, continuous daily involvement is required in order to correct and remedy deep-rooted issues.¹⁰⁷

The eighth principle underlying the MST approach is that responsibility for success in the program and overcoming barriers to success is placed on the MST team—not the family.¹⁰⁸ The MST team continuously evaluates the intervention and holds one another accountable

96. See Painter, *supra* note 84, at 101.

97. See Executive Summary, *supra* note 72; see also Painter, *supra* note 84, at 101.

98. See Executive Summary, *supra* note 72.

99. *Id.*; see also Painter, *supra* note 84, at 101.

100. See Executive Summary, *supra* note 72.

101. *Id.*; see also Painter, *supra* note 84, at 102.

102. See Executive Summary, *supra* note 72.

103. See Treatment Model, *supra* note 78.

104. *Id.*

105. See *id.*

106. See Painter, *supra* note 84, at 102.

107. See *id.*

108. See Treatment Model, *supra* note 78.

for progress.¹⁰⁹ This includes constant review of what is identified as the “fit” between the delinquent behavior and the child’s environment and progress toward specified goals.¹¹⁰ When these goals are being achieved, the MST therapist assumes that the “fit” was correctly identified, that the family is working together, and that the interventions are appropriate.¹¹¹ However, when goals are not being achieved, the MST therapist must reevaluate the situation and change the intervention methods accordingly.¹¹² The MST team never labels a family as “resistant, not ready for change or unmotivated.”¹¹³ As such, the MST therapist never places blame on a family; rather, the MST team assumes the responsibility of achieving a positive treatment outcome.¹¹⁴

Finally, the MST approach promotes treatment generalization in order to maintain long-term success after the MST team completes its intervention.¹¹⁵ Although this is a separate principle of the MST model, it really combines several other fundamental principles in order to assure that changes in the child’s behavior continue after treatment in the MST program is completed. Specifically, the MST model focuses on the caregiver as the key to long-term success.¹¹⁶ The MST team also emphasizes the necessity of a social support system, including friends, neighbors, and family members.¹¹⁷

2. MST – A Proven Approach

MST is an effective and proven treatment model for rehabilitating delinquent youth, and there are many well-established advantages to the MST approach. Most importantly, studies show that MST reduces recidivism rates among participating youth offenders¹¹⁸ and costs significantly less than out-of-home placement alternatives.¹¹⁹ These advantages are clearly demonstrated by the results achieved in several jurisdictions that have implemented MST programs.

109. *See id.*

110. *See Painter, supra* note 84, at 102.

111. *See id.*

112. *See id.*

113. Treatment Model, *supra* note 78.

114. *See id.*

115. *See id.*; *see also Painter, supra* note 84, at 102.

116. *See Executive Summary, supra* note 72.

117. *See Painter, supra* note 84, at 102–03.

118. *Id.* at 30–33; *see also* MST Services, Complete Overview: Research on Effectiveness, http://www.mstservices.com/complete_overview.php (last visited Aug. 20, 2008) [hereinafter Research on Effectiveness].

119. *See Painter, supra* note 84, at 92–93; *see also* MST Services, Cost Effectiveness, http://www.mstservices.com/cost_effectiveness.php (last visited Aug. 13, 2008).

a. The Simpsonville, North Carolina Study

One of the first studies to evaluate the MST approach as applied to juvenile offenders occurred in Simpsonville, North Carolina.¹²⁰ The study evaluated 84 chronic juvenile offenders who were at imminent risk of being placed in out-of-home facilities.¹²¹ Each of the participating juveniles had been arrested for a felony at least once prior to the study; the average number of prior arrests was 3.5; and the average number of weeks that the juveniles had previously been in correctional facilities was 9.5 weeks.¹²² The average age of the youths involved in the study was 15.2 years old, and 77% of the youths were male.¹²³ The participants were randomly assigned either to: (a) receive treatment pursuant to the MST approach; or (b) receive treatment through the usual services provided by the South Carolina Department of Youth Services, which included incarceration and/or referrals for mental health, vocational, and educational services.¹²⁴

The youths assigned to the MST treatment alternative met with MST therapists for an average of 13.4 weeks, with an average of thirty three hours of direct contact between the therapist and the juvenile and/or his or her family.¹²⁵ Consistent with the MST approach, sessions with the youth and his or her family usually occurred in the youth's home, although some sessions occurred in a school or recreational setting.¹²⁶ Individual treatment sessions rarely lasted longer than ninety minutes with others lasting as few as fifteen minutes.¹²⁷ Depending on the stage of treatment, sessions occurred daily in some situations and weekly in others.¹²⁸

On the other hand, the youths that received usual services provided by the Department of Youth Services were given court orders with varying requirements, including curfews and school attendance requirements.¹²⁹ The court order was monitored and enforced by a juvenile probation officer who met with the juvenile at least once a month.¹³⁰ If the stipulations in the court order were not complied with, the juvenile was called back into court for review.¹³¹ The juvenile was either given another opportunity to comply or was committed

120. See JUV. JUST. BULL., *supra* note 85, at 3.

121. See *id.*; see also *Family Preservation*, *supra* note 82, at 954.

122. See JUV. JUST. BULL., *supra* note 85, at 2; see also *Family Preservation*, *supra* note 82, at 954.

123. See JUV. JUST. BULL., *supra* note 85, at 3; see also *Family Preservation*, *supra* note 82, at 954.

124. See JUV. JUST. BULL., *supra* note 85, at 3.

125. See *Family Preservation*, *supra* note 82, at 955.

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

to a Department of Youth Services correctional institution.¹³² Generally, however, a youth that broke the court order was referred for incarceration without a second chance to comply.¹³³

The results of the study significantly favored the MST approach over the usual services treatment provided to juvenile offenders. An evaluation of the juveniles 59 weeks after treatment revealed that 68% of juveniles who received usual services were re-incarcerated compared to only 20% of juveniles treated under the MST approach.¹³⁴ Recidivism rates were higher among youths who received the usual services—62% compared to only 42% of juveniles under the MST approach.¹³⁵ The families of juveniles in the MST group reported better family cohesion, whereas families in the usual services group reported a decrease in family cohesion.¹³⁶ Additionally, reported peer aggression in the MST group decreased while remaining unchanged in the usual services group.¹³⁷ These statistics clearly support the effectiveness of the MST approach in rehabilitating juvenile offenders, decreasing incarceration rates, and reducing recidivism rates as compared to the usual services offered by the Department of Youth Services.

The study also revealed that the cost of the MST treatment approach was significantly less than the cost of incarcerating a juvenile.¹³⁸ The cost per juvenile in the MST group was approximately \$2,800, while the average cost of institutionalizing a juvenile in South Carolina for an average length of time at the time this study was conducted was approximately \$16,300.¹³⁹ Ultimately, for a significantly cheaper cost, the youths in the MST group received individualized treatment programs with intensive interaction that produced far superior results. Since the Simpsonville, North Carolina study, numerous other studies analyzing various juvenile groups have established the effectiveness of the MST approach.¹⁴⁰ These studies also found reduced levels of deviant behavior after treatment under the MST approach.¹⁴¹

b. The Missouri Delinquency Project

A similar study focusing on MST's long-term impact on future juvenile delinquency was conducted in the early 1990s through the Mis-

132. *Id.*

133. *Id.*

134. *Id.* at 956.

135. *Id.*

136. *Id.*

137. *Id.*

138. *See id.* at 959.

139. *Id.*

140. Research on Effectiveness, *supra* note 118.

141. *See id.*

souri Delinquency Project.¹⁴² This study recognized that serious juvenile offenders were at the greatest risk of committing serious crimes in the future.¹⁴³ Therefore, this study analyzed 176 serious juvenile offenders who had at least two prior arrests.¹⁴⁴ On average, the participants had been previously arrested 4.2 times, and all of the juveniles had been previously detained for at least four weeks.¹⁴⁵ The mean age of the participants was 14.8 years old, and 67.5% of the youths were male.¹⁴⁶ Each of the 176 participants was randomly assigned to either a MST treatment group or a usual services group.¹⁴⁷

The MST group participants received individualized treatment plans focusing on each juvenile's interaction with intrapersonal, family, peer, and school factors known to be associated with delinquent behavior.¹⁴⁸ On the other hand, the usual services recipients participated in therapy sessions that focused on changing the personal characteristics of the youth involved (as compared to recommending system changes after analyzing the family and community systems in which each juvenile was involved).¹⁴⁹

The outcome of this study also significantly favored the MST approach. Mothers of children in the MST treatment group reported decreased behavioral problems, while mothers in the usual services group reported increased behavioral problems.¹⁵⁰ Additionally, families of the participants in the MST group reported increased family cohesion, while families of the usual services group reported less family cohesion.¹⁵¹ Specifically, families in the MST group reported an increase in supportiveness and a decrease in hostile conflicts between juveniles and their parents.¹⁵² On the other hand, youths in the usual services group reported either no change or a deterioration in these areas.¹⁵³

The results of this study also support the prior finding of lower recidivism rates in the MST group participants compared to those juveniles who received treatment in the usual services group.¹⁵⁴ Four years after completion of applicable treatments, the recidivism rate for the MST group participants was 22.1% compared to 71.4% of the

142. See Charles M. Borduin et al., *Multisystemic Treatment of Serious Juvenile Offenders: Long-Term Prevention of Criminality and Violence*, 63 J. CONSULTING & CLINICAL PSYCHOL. 569, 569-70 (1995).

143. See *id.* at 569.

144. *Id.* at 570.

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.* at 571.

149. *Id.*

150. *Id.* at 573.

151. *Id.*

152. *Id.*

153. *Id.*

154. See *id.*

juveniles who were assigned to the usual services group.¹⁵⁵ The seriousness of subsequent arrests of recidivists was also analyzed on a 17-point seriousness scale (e.g., 1 = truancy, 4 = disorderly conduct, 8 = assault or battery, 11 = grand larceny, 13 = unarmed robbery, and 17 = murder).¹⁵⁶ Overall, those participants in the MST group who later re-offended were involved in substantially less serious crimes than those who re-offended in the usual services group.¹⁵⁷ The crimes of recidivists from the MST group measured 5.17 (based on the seriousness scale described above), while the seriousness of crimes of recidivists from the usual services group measured 9.40.¹⁵⁸

Today, the Missouri Division of Youth Services operates a juvenile diversion program that incorporates the underlying philosophy of the MST approach.¹⁵⁹ Under Missouri's current program, juveniles participate in local intervention efforts that allow the juvenile's family and community to remain involved in the process without the juvenile being incarcerated in a state-run facility.¹⁶⁰ The diversion project is funded by state government, and funds are used to implement and/or maintain intervention and prevention programs such as intensive probation, gang intervention, family therapy, tutoring, sexual offender treatment, and detention alternatives.¹⁶¹ All of these programs are operated and maintained at the local level; as a result, approximately 4,000 youths in Missouri are diverted from incarceration each year.¹⁶² The cost of these community based alternatives is approximately \$112 per day, while incarcerated youths cost Missouri approximately \$156 per day.¹⁶³

3. MST – The Right Choice for Texas

Beginning in 1986 and continuing through 2006, numerous other studies established the effectiveness of the MST model in treating various juvenile groups, including sexual offenders, juveniles with substance abuse problems, violent and chronic offenders, and mentally and/or emotionally challenged juveniles.¹⁶⁴ In short, MST is a proven

155. *Id.*

156. *Id.* at 570, 573.

157. *See id.* at 573–75.

158. *Id.* at 575.

159. *See* Mo. Dep't of Soc. Servs., DYS Frequently Asked Questions, <http://www.dss.mo.gov/dys/faq/juv.htm> (last visited Sept. 6, 2008).

160. *See id.*

161. *See id.*

162. *Id.*

163. *See* Mo. Dep't of Social Servs., Frequently Asked Questions, <http://www.dss.mo.gov/dys/faq/genopt.htm> (last visited Aug. 20, 2008).

164. Research on Effectiveness, *supra* note 118. This Comment does not detail all of the studies on the effectiveness of the MST approach; rather, this Comment explores the results of two studies dealing specifically with juveniles with serious behavior issues. However, it should be noted that although many of the studies establishing the effectiveness of the MST approach were conducted in part by one of the develop-

treatment model. As the Simpsonville, North Carolina and the Missouri Delinquency Project studies revealed, MST is an effective treatment alternative to incarcerating juvenile offenders as evidenced by lower recidivism rates. Additionally, costs of the MST approach are significantly lower than traditional out-of-home placements.

In 2006, the average cost-per-day per juvenile incarcerated in the TYC was \$160¹⁶⁵, and the average length of stay for juveniles in the TYC was 20.5 months.¹⁶⁶ Calculating the average total cost per juvenile using an average 30-day month, approximately \$98,400 is spent per juvenile while they are incarcerated in TYC. Although a cost comparison to the MST approach would be skewed if costs from other jurisdictions were compared to Texas's costs of incarcerating a juvenile in the TYC, the Washington State Public Policy Group analyzed the "bottom line" of the total cost effectiveness of various crime reduction treatment programs across many jurisdictions.¹⁶⁷ This study concluded that in the long run, "taxpayers gain approximately \$31,661 in subsequent criminal justice cost savings for each [MST] program participant."¹⁶⁸

In addition to long-term cost savings for the State of Texas, implementing a MST treatment alternative would decrease recidivism rates. In 2006, 50% of all youths released from the TYC were re-incarcerated within three years.¹⁶⁹ As established by the Simpsonville, North Carolina study and the Missouri Delinquency Project, implementing a MST treatment alternative in Texas would substantially reduce this statistic.

B. *Regionalized Incarceration Facilities for Serious and Habitual Offenders*

Although the MST approach is based on intervention and treatment while a youth remains within his or her family and community systems, Texas must recognize the necessity of incarcerating juveniles in some circumstances. Accordingly, Texas should establish regionalized institutions as "last-resort" incarceration alternatives for juveniles who commit serious offenses and for habitual offenders. Removal

ers of MST, Scott Henggeler, Ph.D., other independent studies have also confirmed the effectiveness of the MST model. For example, in Tarrant County, Texas, Kirstin Painter evaluated the effectiveness of the MST model utilized by Mental Health and Mental Retardation of Tarrant County. See Painter, *supra* note 84. The results of Painter's study also established the MST as an effective treatment model. See *id.*

165. Tex. Youth Comm'n, Average Cost per Day per Youth, http://www.tyc.state.tx.us/research/cost_per_day.html (last visited Aug. 20, 2008).

166. TYC Population Trends, *supra* note 18.

167. See Steve Aos et al., *The Comparative Costs and Benefits of Programs to Reduce Crime 7* (2001), available at <http://www.wsipp.wa.gov/rptfiles/costbenefit.pdf>.

168. *Id.*

169. Tex. Youth Comm'n, Archive: 2006 Review of Agency Treatment Effectiveness, http://www.tyc.state.tx.us/archive/Research/TxmtEffect06/01_index.html (last visited Aug. 20, 2008).

from society, however, should not isolate these offenders from their families and communities. Instead, these most serious and habitual offenders should be incarcerated in smaller, regionalized facilities giving communities and families the opportunity to remain involved in all stages of the rehabilitation process.

There are two significant, overarching advantages to implementing a localized structure for these last-resort incarceration facilities. First, facilities that remain connected to the local community have programmatic advantages that larger facilities lack.¹⁷⁰ Smaller regionalized facilities allow community partners, including volunteers, mentors, religious organizations, schools, civic organizations, and businesses, to be involved in providing services and treatment to incarcerated juveniles.¹⁷¹ This allows youth to establish meaningful relationships with caring adults in their community, which studies have found to be critical in preventing behavioral problems in high-risk youth.¹⁷²

These relationships also contribute to essential after-care initiatives and long-term maintenance of behavioral modification once the juvenile is released from the facility.¹⁷³ These smaller, regionalized facilities also allow families to have an active role in the rehabilitation process. Large, congregate-care facilities make it difficult, if not impossible, for the families of the offending juveniles to participate in the process because those facilities are often located hundreds of miles from the juvenile's family and community.¹⁷⁴

Second, smaller facilities that focus only on the most serious and chronic offenders allow professionals to customize the structure of treatment programs to address the specific needs of these violent and repeat offenders without encountering the operational obstacles that occur when disparate behavioral groups are incarcerated together.¹⁷⁵ As a result, treatment programs in these facilities can be tailored to specifically address the most serious behavioral issues.¹⁷⁶ Studies show that treatment programs for incarcerated serious offenders focusing on interpersonal skills—including anger management, social skills, and moral education—reduced recidivism rates by as much as 40%.¹⁷⁷

170. Shelley Zavlek, *Planning Community-Based Facilities for Violent Juvenile Offenders as Part of a System of Graduated Sanctions*, JUV. JUST. BULL., Aug. 2005, at 6, available at <http://www.ncjrs.gov/pdffiles1/ojdp/209326.pdf>.

171. *Id.*

172. *Id.*

173. *See id.*

174. *See id.*

175. *Id.* at 5.

176. *See id.* at 6.

177. *Id.*

1. Proven Results – The Missouri Division of Youth Services

From 1887 to 1983, the State of Missouri committed juvenile offenders to gender-specific training schools.¹⁷⁸ Over time, allegations of rape, physical and sexual abuse, and improper uses of solitary confinement were widespread.¹⁷⁹ However, in 1983, Missouri closed its state-run training schools and developed a system of small, regional correctional facilities.¹⁸⁰ By 2001, none of the Missouri facilities contained more than eighty-five beds, and three facilities had fewer than thirty-three beds.¹⁸¹ These decentralized facilities emphasize rehabilitating serious juvenile offenders “in a homey, small-group setting that incorporates constant therapy and positive peer pressure under the direct guidance of well-trained counselors.”¹⁸² The environment is comfortable—youths do not wear bright orange jumpsuits, guards are not dressed in intimidating uniforms, and there are no razor-wire fences or bars on windows and doors.¹⁸³

The ratio of staff-to-youth is 1:5, and youth are divided into small groups of approximately ten for their daily routines.¹⁸⁴ Youth are not given a determined release date, rather youth stay in the facility until they “demonstrate a fundamental shift in character.”¹⁸⁵ This policy encourages youth to take the program seriously and to make genuine efforts to address their underlying behavioral problems.¹⁸⁶ In small groups led by youth leaders, offenders open up and discuss trauma that has occurred in their families and other situations and circumstances that have led them to engage in antisocial behavior.¹⁸⁷ They are taught to listen, empathize with other offenders, and realize patterns that tend to result in delinquent behavior.¹⁸⁸ Youth are also encouraged to overcome educational barriers in very comfortable classroom settings that focus on the individual needs of each juvenile.¹⁸⁹ Illiteracy and other educational barriers are acknowledged and dealt with in a comfortable environment without embarrassment, and traditional classroom curriculums are followed.¹⁹⁰

178. Todd Lewan, *Missouri Model: Turning Around Teen Offenders with Schooling, Therapy in Homelike Settings*, INT'L HERALD TRIB., Dec. 29, 2007, available at <http://www.ihl.com/articles/ap/2007/12/29/america/Youth-on-Trial-What-Works.php>.

179. *See id.*

180. Zavlek, *supra* note 170, at 8.

181. *Id.*

182. Ayelish McGarvey, *A Culture of Caring*, CONNECT FOR KIDS, Sept. 12, 2005, available at <http://www.connectforkids.org/node/3381>.

183. *See Lewan, supra* note 178.

184. *Id.*

185. *Id.*

186. *See id.*

187. *See id.*

188. *See id.*

189. *See id.*

190. *See id.*

The results of these regionalized facilities are remarkable. Only 7.3% of juveniles released from the Missouri facilities were later re-committed for new offenses, and only 8.6% of juveniles released from these facilities were later re-incarcerated in the adult correctional system.¹⁹¹ Additionally, studies show that Missouri's reliance on incarceration only for serious and chronic offenders saves the State of Missouri approximately \$140 per day for each now vacant bed previously used in the state-run facility.¹⁹² In 2000, the Missouri Department of Youth Services operated on a budget of approximately \$61 million, or about \$94 per youth in the state's correctional program.¹⁹³ On the other hand, the average juvenile corrections budget in the eight states surrounding Missouri was approximately \$140 per youth.¹⁹⁴

Clearly, the advantages of regionalized correctional facilities parallel the advantages of implementing the MST approach. Not only are the recidivism rates of those released from these facilities significantly lower compared to offenders released from traditional congregate-care facilities, but the facilities are also extremely cost effective.

2. The Right Choice for Texas

Other states look to Missouri as the model (touting it as the "Missouri model") for establishing similar regionalized juvenile correctional programs nationwide.¹⁹⁵ In Texas, the Blue Ribbon Task Force evaluated the Missouri Model¹⁹⁶ and made recommendations in its Task Force Report to transition Texas's out-of-home facilities to a system focusing on rehabilitation programs administered by small, regionalized facilities.¹⁹⁷ To date, however, legislators have yet to take action on the Task Force's recommendations. The TYC currently operates twelve institutional facilities and nine halfway houses throughout the state.¹⁹⁸

Texas can benefit from these smaller facilities for the same reasons that the State of Missouri benefited from the complete restructuring of its juvenile correctional system. First, serious and habitual offenders who are incarcerated in these facilities receive customized intervention focused on the specific factors attributable to serious antisocial behavior. This is shown to reduce recidivism rates in both the short- and long-run. Additionally, the Missouri model suggests that regionalized facilities cost significantly less than the congregate-

191. *Id.*

192. *See* Zavlek, *supra* note 170, at 8.

193. *Id.*

194. *Id.*

195. *See id.*; *see also* SPRINGER ET AL., *supra* note 65, at 28.

196. *See* SPRINGER ET AL., *supra* note 65, at 28.

197. *Id.* at 26-27.

198. Tex. Youth Comm'n, TYC Facilities, http://www.tyc.state.tx.us/programs/facility_map.html (last visited Aug. 20, 2008).

care facility alternative. The 2006-2007 biennium budget for the TYC was over \$490 million.¹⁹⁹ Although it is difficult to compare Texas's budget with the budgets of other states, additional research should be conducted to determine the ultimate cost-savings of implementing a regionalized system in the State of Texas. Nonetheless, all indicators suggest that such a system would save Texas a significant amount of money in the long run.

IV. CONCLUSION

The path to implementing such radical change in Texas's juvenile justice system will undoubtedly be difficult, but not impossible. Restructuring and reorganizing the TYC will require three essential things. First, the TYC must have a strong leader, who is supported by adequate administration and staff, with a clear vision for change. However, finding qualified and committed individuals to serve in leadership roles at the TYC is a daunting task. When reform efforts began in March 2007, management and control of the TYC was taken away from the existing board of directors, and an independent conservator was appointed to oversee the agency.²⁰⁰ Since that time, three different individuals have served as the TYC Conservator.²⁰¹ Most recently, Richard Nedelkoff was appointed by Governor Rick Perry to serve in this capacity, effective as of December 19, 2007.²⁰² Although it remains early in his term to notice remarkable changes, he believes his role is to reform the TYC so that it is a "model for the rehabilitation of juvenile offenders."²⁰³ TYC leaders should continue to seek qualified candidates who are committed to changing the TYC to fill leadership roles in the agency. This will form the foundation for reform efforts to come.

Second, government leaders in every branch of government must align and agree to work together to implement changes. Diversion programs such as Missouri's Juvenile Court Diversion Program described in Section III.A.2. of this Comment require the partnership and cooperation of all branches of government. In order for local, community-based MST programs to be effective, local judges, probation officers, therapy professionals, and government representatives must eliminate all impediments to effective communication in order to assure proper coordination and support.

199. Tex. Youth Comm'n, Agency Funding 2006-2007 Biennium, <http://www.tyc.state.tx.us/about/funding.html> (last visited Aug. 20, 2008).

200. See Mike Ward, *Senators Vote to Put TYC Under a Conservatorship*, AUSTIN AMERICAN-STATESMAN, Mar. 1, 2007, available at <http://www.statesman.com/news/content/region/legislature/stories/03/01/1tyc.html>.

201. See Richard Nedelkoff, *TYC 60-Day Conservator's Report*, Feb. 20, 2008, available at http://www.tyc.state.tx.us/reform/rn_conservator_60day.html.

202. *Id.*

203. *Id.*

Finally, the governor and the legislature must work together to provide adequate funding for a restructuring. Although reorganization of the TYC system will initially require substantial analysis and funding, the long-run cost savings of MST and regionalized incarceration facilities will ultimately save Texas taxpayers money. Additionally, Texas should investigate and set aside an appropriate amount in its annual budget in order to maintain these programs and facilities.

History shows a clear trend in the Texas juvenile justice system of problems in providing for the basic welfare and safety of youth incarcerated in the TYC. TYC administrators and state legislators have investigated allegations of scandal, abuse, and neglect, but have failed to analyze and appropriately remedy the effectiveness of the TYC's rehabilitation programs. Legislators must re-focus their attention on the underlying purpose of the TYC—rehabilitation—and implement drastic reforms to make the Texas juvenile justice system more effective.

MST is a proven alternative to reduce recidivism rates in both the short- and long-term. The MST approach is also a more cost-effective method of rehabilitation. Numerous other jurisdictions have already adopted the MST approach and have seen remarkable improvements in juvenile delinquency. Texas should join these other jurisdictions by implementing a system that effectively and properly rehabilitates youth in their community and family environments.

Additionally, Texas must acknowledge the necessity of rehabilitating serious and chronic juvenile offenders in out-of-home placements in certain situations. However, these facilities should be small, regionalized institutions that provide a safe and comfortable environment to properly rehabilitate juveniles. Regionalized facilities will allow for families of incarcerated offenders to remain involved in the rehabilitation process.

History demonstrates and research shows that the current structure of the Texas juvenile justice system is failing. TYC leadership must acknowledge the system's failures and be amenable to implementing proven treatment alternatives. It is imperative that all branches of government work together and provide proper funding so that Texas can be a model state for juvenile offender rehabilitation programs. The State of Texas must put the focus back on youth and families. There is no better time than now.